

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 99-1415

United States of America,

Appellee,

v.

Margarito H. Mendoza, also known as
Mark Mendoza,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: April 6, 2000
Filed: April 12, 2000

Before BEAM, HEANEY, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Margarito Mendoza pleaded guilty to conspiring to distribute cocaine, in violation of 21 U.S.C. § 846, and the district court¹ sentenced him to 78 months imprisonment and 5 years supervised release. On appeal, counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), suggesting that Mendoza's Sentencing Guidelines range was incorrectly calculated and therefore that his sentence was excessive.

¹The Honorable Thomas M. Shanahan, United States District Judge for the District of Nebraska.

We conclude that Mendoza may not challenge his sentence on appeal, as he explicitly and voluntarily exposed himself to that sentence by entering into a plea agreement that contemplated a base offense level of 28, a 3-level role increase, and a 3-level acceptance-of-responsibility decrease--all of which resulted in the 78-97 month Guidelines range he challenges on appeal. See United States v. Early, 77 F.3d 242, 244 (8th Cir. 1996) (per curiam); United States v. Nguyen, 46 F.3d 781, 783 (8th Cir. 1995).

In accordance with Penon v. Ohio, 488 U.S. 75, 80 (1988), we have reviewed the record for any nonfrivolous issues and have found none.

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.